

THE CORPORATION OF THE CITY OF WELLAND

BY-LAW NUMBER **2015 - 1**

**A BY-LAW TO ESTABLISH AND ADOPT A PURCHASING
POLICY; AND TO REPEAL BY-LAW 2009-181**

WHEREAS Council deems it necessary and advisable to adopt a new purchasing policy for the Corporation.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND ENACTS AS FOLLOWS:

1. That the Purchasing Policy attached hereto as Schedule "A" shall be and the same is hereby adopted and approved as the Purchasing Policy for the City of Welland, governing all matters falling within the scope of same.
2. That By-law 2009-181 shall be and the same is hereby repealed.
3. This by-law shall come into full force and effect on the date of passage.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS
20th DAY OF January, 2015.

MAYOR

CLERK

SCHEDULE "A"

**THE CORPORATION
OF THE
CITY OF WELLAND**



PURCHASING POLICY

THE GOVERNING POSTULATE FOR THIS POLICY:

TO ENSURE THE INTEGRITY OF THE PROCUREMENT PROCESS

FEBRUARY 2017

INTEGRITY: If there are any doubts that what is being done or asked by the client Division to be done might bring the integrity of the process into question, the procurement process should be suspended until the issue is resolved. Issues that cannot be resolved satisfactorily will be referred to a higher authority.

Subordinate to this are six (6) principles which provide the framework for all City of Welland Procurement activities. Whenever a City of Welland employee must act in a way not clearly set out in this Policy, integrity and its supporting principles will provide the necessary guidance.

CORE VALUES AND GUIDING PRINCIPLES:

1. To demonstrate honesty and sincerity while upholding the highest ethical principles, to encourage competition, reflect fairness and ensure that all potential bidders are subject to equal conditions. Through complete accountability and respect for the integrity of the process including all actions taken within it, the City shall stand the test of public scrutiny in matters of prudence and integrity.
2. To think broadly and long term; to balance city wide and neighbourhood responsibilities – to do more with limited resources; to exhibit leadership qualities in our thinking and in our actions, encourage individual and team initiatives that exceed expectations and advocate what we believe in. To increase the efficiency of our City government through fiscal responsibility and prudence.
3. To exhibit a commitment to fulfilling the vision and goals of the City of Welland through teamwork; working in full cooperation and a spirit of collegiality with staff, council, residents, businesses and external partners.
4. To make every reasonable effort to satisfy operational requirements while simultaneously obtaining best value through the procurement process so that to the greatest extent possible, openness, accountability and transparency are achieved while protecting the best interests of the Corporation and the constituents of the City of Welland.
5. Without limiting the application of the confidentiality provisions of the Municipal Freedom of Information and Protection of Privacy Act, the City shall not share confidential information with any potential vendor such that that potential vendor may gain unfair advantage or suffer any disadvantage in a competitive process for the supply of goods and services to the City of Welland.
6. To let our actions promote sustainability that contributes to a balanced community, economy and environment and to minimize the footprint of our activities and to do no harm. To show respect for the needs of all residents, for all viewpoints and for the diversity of our community with a sensitivity to meeting the requirements of all residents with special needs and interests and those less fortunate.

APPENDIX 1

PURCHASING POLICY FOR THE CORPORATION OF THE CITY OF WELLAND

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PURCHASING POLICY FOR THE CORPORATION OF THE CITY OF WELLAND

PART I - PURPOSES, GOALS AND OBJECTIVES:

1. To meet the current and future needs of the Corporation through the acquisition of goods and services and to carry out construction projects in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to the City of Welland and its constituents while preserving organizational, and financial and civic accountability.

To establish a policy that is congruent with providing effective and efficient delivery with a commitment to maintain the integrity of the process through accountability, fairness, objectivity, efficiency, effectiveness and transparency.

This policy's purpose, goal and objective for all methods of procurement are:

- To seek a balance between cost savings and best value while protecting the interests of the City.
- To encourage competition with fair and equal treatment of all bidders through an open, honest and transparent process culminating in the fair evaluation of all bids received.
- To consider, promote and incorporate accessibility for persons with the requirements of the *Ontarians with Disabilities Act, 2001*, S.O. 2001 c.32 as amended.
- To maintain timely and relevant policies and procedures and to this end, it is intended that this by-law will be reviewed at least every five (5) years or earlier to evaluate its effectiveness.
- To ensure accountability and integrity through verification that the chosen method for expenditures will be authorized and by regularly reviewing policy to ensure that the goals and objectives of the process are being met.
- To continuously strive wherever possible and feasible, to consider environmental friendly alternatives.

PART II - SCHEDULES:

2. The following Schedules form part of this policy:

Schedule "A": "Goods and Services Exempt from this Purchasing Policy"

Schedule "B": "Requisition and Purchasing Methods c/w Approval Authority"

Schedule "C": "List of Bid Irregularities with Applicable Consequences"

Schedule "D": "Sample of the City's Standard "Irrevocable Standby Letter of Credit"

Schedule "E": "Glossary of Purchasing Definitions and Terms"

PART III - AUTHORITY - EXPENDITURE CONTROL - SCHEDULE B:

All purchases of goods and services and construction shall be authorized as follows:

3. This policy authorizes those individuals named in Schedule "B" to act as legal Purchasing Agents for the City of Welland. Purchases, including goods and services listed in Schedule "A" to this policy, may be made provided that sufficient funds are available and identified in appropriate accounts within Council approved budgets.
4. Authorized signatures, when legally required, are necessary on all purchase requisitions, purchase orders, agreements to purchase, leases or contracts for Goods, Services and Construction.
5. The Purchasing Services Division shall operate under the direction of the General Manager Corporate Services / Treasurer and shall have the authority to sign, Purchase Orders, Blanket Orders and Purchase Commitment agreements (contracts) that are in accordance with this policy.
6. A Contractual Agreement or Purchase Order can be issued upon authorization by City Council after having called a Tender or Request for Proposal provided that:
 - The award is within the approved budget and is made to the lowest compliant bidder and no lower bidder was disqualified due to irregularities or informalities;
 - There is no current, pending or threatened litigation between the bidder and the City.

Further to the First point: Where there exists an irregularity or informality in a Tender or Proposal submission process, the Purchasing Services Division will prepare an analysis report of the bid opening, highlighting such irregularities or informalities and forward to the end user Division who will prepare a Staff Report to Council for approval and award of such Tender or Proposal;

7. The calling of a Tender, Request for Proposal or Request for Quotation may be waived with approval of Council for the procurement of goods or services in the following described situations:
 - The extension or reinstatement of an existing contract would prove more cost effective or beneficial to the City in the opinion of the Purchasing Division in conjunction with the appropriate Division General Manager;
 - Goods and services are available from only one source;
 - Where for reasons of time or due to the nature of the goods and services to be supplied, the interests of the City would be best served by a direct purchase, or an "Invitation to Tender" to three (3) or more selected Bidders, instead of the calling of a public Tender.
8. The Procurement process shall be carried out in accordance with the City, Procurement Policies and Procedures effective as amended.

PART IV – RESPONSIBILITIES OF THE DIVISIONS:

9. Those named in Schedule "B" shall also be required to:
 - Monitor adherence to the provisions of this policy and the procedures adopted for its use;
 - Be responsible for maintaining good vendor relations and for the conduct of all negotiations with vendors, subject to the other provisions of this policy;
 - Ensure that all Contract terms and conditions comply with the Bid Solicitation;
 - Prepare and approve all specifications and terms of reference;
 - Manage the contract to vendor compliance with contract terms & conditions;
 - Monitor all contract expenditures and ensure that all financial limitations have been complied with and that all accounts are paid within the times set out in the Contract;
 - Monitor the performance of all contracted suppliers to ensure timely delivery;

- Standardize the use of Goods and Services, where such standardization demonstrably supports the purposes, goals and objectives of this By-law; and
 - Ensure that all Goods and Services procured have in fact been received.
10. The Purchasing Division shall manage the sale or disposal of all unusable, obsolete, worn out, disused or scrapped supplies with such sales being subject to and in accordance with the provisions of this by-law.
 11. City of Welland Divisions shall endeavour to remain informed on vendor related data pertaining to a potential contractor's performance history, financial situation and practices before recommending a contract award. This will also include monitoring contractor performance and documenting evidence of such performance and advising the Purchasing Division in writing where the performance of a contractor has failed to comply with a contract. The Purchasing Division shall have the authority to prohibit a contractor whose performance has been unsatisfactory from submitting a bid in response to a call for bids in accordance with policies adopted by Council.
 12. All individuals named in Schedule "B" will be required to maintain current files to serve as a historical record and an accurate audit trail in the event of a financial review, subsequent legal action or an official complaint. Current files are also important for anyone who may have to consult the file or assume responsibility for it at a later date.
 13. The Division General Manager and Division Head, when required, shall be provided with assistance from the Purchasing Services Division prior to the bid solicitation call, in matters that require further expertise and may request the Purchasing Services Division to undertake research into specific goods, services or suppliers.
 14. To assist City Divisions in developing creative and flexible procurement strategies to achieve their operational objectives, the Purchasing Division will endeavour to get involved early and liaise with the Client Division. This may involve such tasks as helping with needs identification; requirement definition; procurement strategy development; preliminary drafting of solicitation documents. This can be accomplished through ongoing liaison with Divisions, review of procurement patterns or it can be initiated by client requests for assistance.
 15. The Purchasing Division shall proactively consult and be readily available to lend guidance and assistance to any Division or colleagues seeking to better understand this policy. Through this process, Purchasing will endeavour to ensure the objectivity and integrity of the Procurement Process by clearly defining the scenario's when each procurement method should be used.
 16. The Purchasing Division shall report any and all violations to the General Manager Corporate Services / Treasurer and the appropriate Division General Manager to be dealt with accordingly.

PART V – PURCHASING GUIDELINES:

GENERAL

17. To achieve consistent purchasing and acquisition practices the Purchasing Division shall develop and establish purchasing procedures consistent with the Purposes, Goals and Objectives set out in this policy. Procedures enacted pursuant to this policy shall be approved by the City Management Team (CMT) and all operating Divisions shall be required to follow such procedures.
18. The Purchasing Division will administer this Policy and address any questions pertaining to the meaning or application of this policy shall be submitted to the Purchasing Division who will resolve the question.
19. Where applicable, Individual Divisions shall initiate purchases for only their unique requirements to ensure that purchases are not duplicated in other Divisions and to take advantage of corporate

purchasing power. When CMT has decided that corporate purchasing power is a factor in that goods and services involve more than one Division, the Purchasing Division shall gather spend data and issue the relevant bid document on behalf of each Division.

20. Notwithstanding the provisions of this policy, every bid document issued by the City shall contain a provision that the City of Welland shall have the right to reject the lowest or any bid at its absolute discretion, and that the City of Welland also reserves the right to reissue the bid documents in its original form.
21. No contract or Purchase Order shall be divided so as to avoid any requirements as outlined within this policy. The splitting of purchases to avoid any of the purchasing processes outlined in this policy is prohibited.
22. A Division General Manager or their designate is authorized to obtain, prior to the adoption of the capital budget by City Council, bids, provided that the documents include a clause specifically stating that the acceptance of a bid and placing of the order is subject to budget approval by City Council and the items specified are subject to change in quantity and / or deletion.
23. In accordance with Schedule "B" attached, dollar amounts shown in this policy setting parameters for the purchasing process, except as otherwise stated, shall be the total cost excluding taxes, duties and freight.
24. Except as otherwise stipulated, any purchase of goods, services and construction shall be made on a competitive basis, in keeping with accepted public purchasing practices and in accordance with the applicable federal, provincial and municipal laws. The City does not solicit in-house bids in competition with outside firms.
25. No Contract for Services shall be awarded where the services would result in the establishment of an employee - employer relationship.
26. No employee shall purchase, on behalf of the City, any Goods, Services or Construction, except in accordance with this policy.
27. Council members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended.
28. Except as otherwise provided, no work may commence or commitment to purchase goods shall be entered into, until such time as an Official Purchase Order has been issued or a Contract signed, and all necessary documents and approvals received.

TELECOMMUNICATIONS, COMPUTER EQUIPMENT AND SERVICES

29. All telecommunications, computer, video security, and electronic building access systems, software and related products and services shall be budgeted and requested through the Manager of Information Services. Where I.T. related purchases are part of a larger, separately budgeted/funded project, the Manager of Information Services shall be involved with specification and approval due to overriding concerns of security, corporate standards and compatibility.
30. No payment of any aforementioned commodity shall be processed by the City of Welland by any method without first receiving authorization from the Manager of Information Services.

CONTRACT WITHOUT BUDGETARY APPROPRIATION

31. The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts within the City Council approved budget. Where a requirement exists for which Goods, Services or Construction are required and funds are not contained within the Council Approved Budget to meet the proposed expenditure, the Division General Manager, shall, prior to commencement of the purchasing process, submit a report to Council containing:
- information surrounding the requirement to Contract;
 - the terms of reference to be provided in the Contract;
 - information on the availability of the funds within existing estimates, which were originally approved by Council for other purposes, or on the requirement of additional funds.

LEGAL CLAIMS AND DAMAGES

32. The City may, in its absolute discretion, reject a Tender or Proposal submitted by the bidder if the bidder/proponent, or any officer or director of the bidder/proponent is or has been engaged, either directly or indirectly through another corporation, in a legal action or claim against the City, its elected or appointed officers and employees in relation to:
- Any other contract or services; or
 - Any matter arising from the City's exercise of its powers, duties, or functions.
33. In determining whether or not to reject a quotation, tender or proposal under this clause, the City will consider whether the litigation or claim is likely to affect the bidder's ability to work with the City, its consultants and representatives, and whether the City's experience with the bidder/proponent indicates that the City is likely to incur increased staff and legal costs in the administration of the contract if it is awarded to the bidder/proponent.

NO LOCAL PREFERENCE

34. The City of Welland will endeavour to achieve the best value in its commercial transaction. As a consequence, the City will not be bound to purchase goods and/or supplies based on Canadian content, nor will the City practice local preference in awarding purchasing contracts.

LOBBYING

35. No bidder shall contact any member of Council or any employee of the City of Welland to attempt to influence the award of the contract. Any activity designed to influence the decision process, including, but not limited to, contacting any member of Council or employee of the City of Welland for such purposes as meetings of introduction, social events, meals or meetings related to the selection process, will result in disqualification of the bidder for the project to which the influential activity is deemed to be directed. Notwithstanding the above, this prohibition does not apply to meetings specifically scheduled by the City of Welland for presentations or negotiations, or to questions of staff of the City Divisions for clarification of the City's requirements.
36. In addition, no bidder who has been awarded the contract shall engage in any contract or activities in an attempt to influence any member of Council or any employee of the City of Welland with respect to the purchase of additional enhancements, options, or modules. However, a contractor may communicate with the Purchasing Services Division or the General Manager Corporate Services / Treasurer for purposes of administration of the contract during the term of the contract.
37. The determination of what constitutes influential activity is in the sole discretion of the City's Purchasing Services Division, acting reasonably, and not subject to appeal.

38. At the Discretion of the Purchasing Division, any Bidder who violates any provisions of this Procurement by-law may be prohibited from further bid solicitation opportunities for up to 3 years as determined by the Purchasing Division.

ENVIRONMENTAL CONSIDERATIONS

39. The City of Welland and its Purchasing Services Division through its efforts to reduce waste and increase the development and awareness of environmentally sound procurement practice will endeavour to ensure that, wherever possible, specifications developed for the acquisition of goods and services will be amended to provide for the expanded use of products deemed to be more durable, reusable, that contain the maximum level of post consumer waste and/or recyclable content, without significantly impacting the intended use.
40. It is also recognized and understood that a thorough cost analysis will be employed so as to ensure that the products are made available at competitive prices in order to increase the development and awareness of Environmentally Sound Products.
41. Where practical, the City of Welland may award on the basis of the least potential damage to the environment and/or to those vendors capable of supplying goods which incorporate recycled materials into their product. For the purposes of this provision, recycled materials are defined as those items having a lesser or reduced effect on human health and the environment when compared to other products which serve the same purpose.
42. The City of Welland requires that all products and services including all parts and portions thereof and pre-work thereto delivered to and performed on behalf of and on the premises and facilities of the said agency must be compliant with the *Canadian Environmental Protection Act, 1999* and all its related regulations, codes of practices and guidelines.

COUNCIL APPROVAL REQUIRED

43. Despite any other provisions of this policy, the following Contracts are subject to Council approval:
- any Contract requiring approval from the Ontario Municipal Board;
 - any Contract prescribed by Statute to be made by City Council;
 - any Contract where the minimum amount of required bids are not received;
 - any Contract where the Total Cost is greater than the Council Approved Budget or where the expenditure would result in insufficient remaining funds in the project budget;
 - any Contract where an irregularity precludes the Award of a Contract to the supplier submitting the lowest bid;
 - any Contract where the estimated value of the Goods, Services or Construction being purchased **exceeds \$75,000**;
 - when any Contract is required in accordance with the City's Financing Lease Policy;
 - any Contract having to do with property acquisition and disposal;
 - any Contract having to do with external audit appointments;

ACCESSIBILITY WHEN ACQUIRING GOODS AND/OR SERVICES

44. In accordance with the Human Rights Code, *Ontarians with Disabilities Act, 2001* and the *Accessibility for Ontarians with Disabilities Act, 2005* and its regulations, and specifically the integrated Accessibility Standards, Ontario Regulation 191/11, Part 1, sections 5 and 6, accessibility requirements will be incorporated into the specifications with respect to the Procurement of Goods and/or Services. Where

possible, when an RFP competition is conducted accessibility will be one of the evaluating criteria that will be considered in the decision making process.

PART VI – PURCHASING:

PURCHASING CARD

45. Corporate credit card / Purchasing Card policies and procedures are controlled through the General Manager Corporate Services / Treasurer’s office. Purchasing Cards shall be recognized as a method of payment. Individuals authorized to use this method of payment shall adhere to all applicable procedures of the Purchasing By-law as amended.

BLANKET PURCHASE ORDERS:

46. A Blanket Purchase Order may be used where:
- one or more Divisions repetitively order the same Goods or Services and the actual demand is not known in advance; or
 - A need is anticipated for a range of Goods or Services for a specific purpose and for which convenience and location are major factors but the actual demand is not known at the outset.
47. The Purchasing Services Division shall establish and maintain Blanket Purchase Orders upon request.
48. To establish prices and select sources, the Purchasing Services Division shall employ the provisions contained in this policy for the acquisition of Goods or Services.
49. More than one supplier may be selected where it is in the best interests of the City and the Bid Solicitation allows for more than one.
50. The expected quantity of the specified Goods or Services to be purchased over the time period of the agreement will be as accurate an estimate as practical and be based, to the greatest extent possible, on previous usage adjusted for any known factors.

PURCHASING PROCESSES

51. The purchasing processes for Goods, Services or Construction are listed in Schedule “B”. Subject to the provisions of this by-law, the following Purchasing process may be used for the procurement of Goods, Services and Construction.

DIRECT PURCHASES - LOW DOLLAR PURCHASES: ≤ \$5,000

52. Purchases made pursuant to this Section do not require quotes but shall be made from the competitive market place at a fair market value wherever possible. These purchases may be made by using an Approved Receipt, Purchase Order or Corporate Credit Card. Low dollar purchases are considered expenditures at a value less than \$5,000.
53. The Corporate Services Division in conjunction with the Division General Manager shall have authority to establish Petty Cash funds in such an amount to meet the requirements of a Division for the acquisition of Goods or Services. All Petty Cash fund disbursements shall be evidenced by signing and certifying a receipt or invoice indicating that the goods have been received and shall be available for auditing purposes.

REQUEST FOR QUOTATION: > \$5,000 to ≤ \$10,000

54. Where the requirement for goods and / or services has an estimated value of ≤ **\$10,000**, the Division Manager or designate and/or the Purchasing Services Division with a properly signed purchase requisition, is authorized to make the purchase from such suppliers and upon such terms and conditions that are best for the Corporation. Staff is to solicit a minimum of two (2) written informal quotations. These informal quotations must be attached to the purchase requisition and voucher for audit purposes.

A Request for Quotations will be called when;

- the item's estimated value is **>\$5,000 and ≤ \$10,000**;
- sufficient funds are available and identified in appropriate accounts within Council Approved Budgets;
- the requirement can be fully defined, and;
- Best value can be achieved by an award selection made on the basis of the Lowest Compliant Bid that meets specifications.
- Staff is to solicit a minimum of two (2) written informal quotations. These informal quotations must be attached to the purchase requisition and voucher for audit purposes.

INFORMAL QUOTATIONS: > \$10,000 to ≤\$25,000

55. Where the requirement for goods and / or services has an estimated value of > **\$10,000** but ≤**\$25,000** the Division Manager or designate and/or the Purchasing Services Division with a properly signed purchase requisition, is authorized to make the purchase from such suppliers and upon such terms and conditions that are best for the Corporation. Staff is to solicit a minimum of three (3) written informal quotations. These informal quotations must be attached to the purchase requisition and voucher for audit purposes.

Request for Quotations will be called when

- the item's estimated value is **> \$10,000 and ≤\$25,000**;
- sufficient funds are available and identified in appropriate accounts within Council Approved Budgets;
- the requirement can be fully defined;
- Best value can be achieved by an award selection made on the basis of the Lowest Compliant Bid that meets specifications.
- Staff is to solicit a minimum of three (3) written informal quotations. These informal quotations must be attached to the purchase requisition and voucher for audit purposes.

INFORMAL QUOTATIONS: > \$25,000 to ≤ \$75,000

56. Where the requirement for goods and / or services has an estimated value of > **\$25,000** but ≤ **\$75,000** the General Manager or designate and/or the Purchasing Services Division with a properly signed purchase requisition, is authorized to make the purchase from such suppliers and upon such terms and conditions that are best for the Corporation. Staff is to solicit a minimum of three (3) written informal quotations. These informal quotations must be attached to the purchase requisition and voucher for audit purposes.

Request for Quotations will be called when

- the item's estimated value is **> \$25,000 and ≤ \$75,000**;
- sufficient funds are available and identified in appropriate accounts within Council Approved Budgets;
- the requirement can be fully defined;
- Best value can be achieved by an award selection made on the basis of the Lowest Compliant Bid that meets specifications.

- Staff is to solicit a minimum of three (3) written informal quotations. These informal quotations must be attached to the purchase requisition and voucher for audit purposes.

FORMAL SEALED RFX: > \$75,000

57. Where the requirement for goods and / or services has an estimated value of >\$75,000, the Purchasing Services Division with a properly signed purchase requisition received from the Division General Manager or designate, is authorized to conduct a “Formal RFX” process to solicit a minimum of three (3) formal sealed bids from interested bidders.
58. Formal sealed quotations will be received by the Clerk’s Division. Quotations shall be opened and recorded in the presence of the City Clerk or designate and at least one employee from the Requesting Division.
59. Purchasing Service Division will either place a Purchase Order or develop a contract with the successful low bidder providing that a minimum of three formal sealed quotations have been obtained.
60. Where three formal sealed quotations cannot be obtained for goods and/or services, justification from the Division General Manager, by way of report to Council, must be made for a recommendation to award in those cases (refer to Sections 75 through 77 Purchase by Negotiations).

**FORMAL SEALED TENDERS / PROPOSALS
ENGINEERING – CAPITAL CONSTRUCTION: > \$75,000**

61. Where the requirement is Engineering Capital Construction related, the Infrastructure Services Division is authorized to conduct a formal Request for Tender or Proposal to solicit a minimum of three (3) formal sealed bids from interested bidders.
62. Formal sealed tenders will be received by the Clerk’s Division. Tenders shall be opened and recorded in the presence of the City Clerk or designate and at least one employee from the Requesting Division.
63. Providing that a minimum of three formal sealed tenders have been obtained, Engineering Services shall prepare a report to council seeking council authorization to enter into contract with the successful low bidder.
64. Where three formal sealed quotations cannot be obtained for goods and/or services, justification from the Division General Manager, by way of report to Council, must be made for a recommendation to award in those cases.

**FORMAL SEALED TENDERS / PROPOSALS
NON ENGINEERING – CAPITAL CONSTRUCTION: > \$75,000**

65. Where the requirement is not considered Engineering Capital Construction related, the Purchasing Services Division with a properly signed purchase requisition received from the Division General Manager or designate, is authorized to conduct a “Formal Request for Quotation” process to solicit a minimum of three (3) formal sealed bids from interested bidders.
66. The Purchasing Services Division shall be responsible to issue all tender, proposal and consultant documentation. All vendor notification shall be performed and/or monitored by the Purchasing Division in conjunction with the user Division. All Tenders and Proposal replies shall be received by the Clerk’s Division. They shall be opened and recorded in the presence of the City Clerk or designate and at least one employee from the Requesting Division. All Tenders will be opened in full view of all bidders and any members of the public who wish to attend. The names of bidders and the total tendered prices will be read out at the public opening. In the case of a proposal, they will be received and acknowledged.

67. Providing that a minimum of three (3) formal sealed tenders have been obtained, Engineering Services shall prepare a report to Council seeking Council authorization to enter into contract with the successful low bidder.
68. Where three (3) formal sealed quotations cannot be obtained for goods and/or services, justification from the Division General Manager, by way of report to Council, must be made for a recommendation to award in those cases.

REQUEST FOR PROPOSALS

69. A Request for Proposal shall be used where one or more of the criteria for issuing a Request for Tender cannot be met:
- the requirement is best described in a general performance specification and owing to the nature of the requirement, suppliers are invited to propose innovative solutions to a problem, requirement or objective and the selection of the supplier is based on the effectiveness of the proposed solution rather than on price alone; or
 - It is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.
70. The Division General Manager in charge of the Bid Solicitation, or the Purchasing Services Division on his/her behalf, may award Contracts emanating from a Request for Proposal provided that:
- the award is made to the supplier meeting all mandatory requirements and determined, by reference to an evaluation grid, as providing best value;
 - sufficient funds are available and identified in appropriate accounts within Council Approved Budgets; and
 - the provisions of this policy are complied with; and
 - A written report prepared by the Division General Manager is submitted to Council and the Award is authorized by City Council.
71. Proposals for Professional Services shall be called and managed by the requesting Division according to the "Professional Services" section of this policy (Sections 73 & 74). All other services shall be called and managed by the requesting Division according to the purchasing methods and approval levels detailed in this purchasing policy.

REQUEST FOR EXPRESSIONS OF INTEREST (REFI or RFI)

72. A Division General Manager, Division Head or a Purchasing Services Division may conduct a request for expression of interest for the purposes of determining the availability of suppliers of any Goods, Services or Construction and for the purposes of keeping a list of available suppliers.

PROFESSIONAL SERVICES:

73. Where the requirement for these services is estimated to cost **<\$75,000**, Direct Assignment may be used and based on the vendor's written proposal, the Division General Manager will make the final selection and submit a report to Council requesting approval.
74. Where the requirement for Professional Services is estimated to cost **≥\$75,000**, a minimum of three (3) written sealed proposals must be solicited. In accordance with the Request for Proposal section of this policy, the Division General Manager will issue a formal Request for Proposal with a final report to Council requesting approval of their choice.

NOTE: All other services will fall under the purchasing methods and approval levels detailed in this purchasing policy.

PURCHASE BY NEGOTIATION

75. The Division General Manager or Purchasing Services Division may under any of the following conditions negotiate with one or more bidders and in such cases where the requirement for inviting tenders or quotations is waived:
- a. when in the judgment of the Division General Manager, goods are judged to be in short supply due to market conditions;
 - b. where there is only one source of supply (sole source) for the goods or services or where only one source of supply would be acceptable and cost effective;
 - c. where there is existence of exclusive rights held by a supplier or the need for compatibility with goods and services previously acquired;
 - d. when the goods and services are required as a result of an emergency, which would not reasonably permit the use of a process other than Direct Negotiation;
 - e. the required goods and services are to be supplied by a particular vendor or supplier having special knowledge, skills, expertise or experience;
 - f. where the lowest compliant bids from two or more bidders are identical;
 - g. where the lowest tender or quotation meeting specifications substantially exceeds the estimated cost and it is impractical to recall the tender or quotation;
 - h. when all bids received fail to meet the specifications or tender terms and conditions and it is impractical to recall tenders or quotations;
 - i. when no bids are received in a tender or quotation call;
 - j. when only one bid is received in a tender or quotation call;
76. Where a negotiated purchase is required, the Division General Manager or Designate shall approve purchases of **\$25,000 or less**, the City Manager or Designate shall approve purchases of **more than \$25,000 up to ≤\$75,000** and City Council shall approve purchases of **>\$75,000** (see Schedule "B").
77. The methods of negotiation shall be those accepted as standard negotiating procedures that employ fair ethical practices, as outlined in the Purchasing code of ethics of the Ontario Public Buyers Association (OPBA).

EMERGENCY PURCHASES:

78. Where an Emergency exists (either declared or not) requiring the immediate procurement of Goods and/or Services, the City Manager, a General Manager or the Purchasing Services Division with a written or oral request from the appropriate General Manager, may make an Emergency Purchase of the appropriate Good and/or Service by the most expedient means necessary and on the most favorable terms available, notwithstanding any other provision of the Purchasing By-law.
79. For all Emergency Purchases that exceed the established Purchasing By-law approval and procedural

limits, the General Manager shall as soon after the purchase as reasonably possible, notify the required approval authorities (See Schedule B) by means of a written report detailing the circumstance of the Emergency Purchase. This report shall be forwarded for approval in accordance with the non-emergency purchases approval authorities established in the Purchasing By-law.

CO-OPERATIVE PURCHASES

80. The Purchasing Services Division is hereby authorized to participate in co-operative purchasing arrangements with other municipalities, regions, local boards and public agencies within the Province. At present, the Purchasing Division for the City of Welland resides on the board for both the Niagara Public Purchasing Committee (NPPC) and participates in Group Purchasing Organizations and Buying Groups such as the Ontario Education Collaborative Marketplace (OECM), and The Ministry of Government Services (MGS).
- Any Purchase Order, contract or any other award resulting from the co-operative tendering process, shall be subject to all conditions and limitations of this policy.
 - Upon receipt of approval, the City of Welland will be responsible for all aspect of the process including, the issuance of the PO, receipt of materials and the account payable process.

ACQUISITION OF GOODS AND SERVICES FROM OTHER GOVERNMENT BODIES

81. The Purchasing Services Division may acquire goods and/or services from a federal, provincial or municipal body, ministry, agency, board, corporation or authority when similar goods and/or services are NOT available from other sources or in the case of Provincial and Federal Standing Agreement, or other competitive procurement processes, the Agent may take advantage of these opportunities if deemed to be in the best interests of the City Of Welland. It is also recognized that service relocations may only be done by the designate authority (Welland Hydro, Enbridge Gas).

SPECIFICATIONS

82. Divisions shall be responsible to prepare and provide specifications to the Purchasing Services Division when required. The Purchasing Services Division, when applicable, shall review all specifications, terms and conditions and have the authority to recommend changes.
83. Vendors or potential vendors shall not be requested to expend time, money or effort on design or in developing specifications or otherwise to help define a requirement beyond the normal level of service expected from vendors. Where such services are required:
- the Purchasing Services Division must be advised;
 - the contracted vendor will be considered a consultant and will not be allowed to make an offer for the supply of goods and/or services;
 - a fee shall be paid in the amount of which shall be determined and agreed upon by the vendor before the service commences; and
 - The detailed specifications shall become the property of the City of Welland and can be used in obtaining competitive bids.

PART VII - DESIGN AND DEVELOPMENT SERVICES

84. Suppliers, potential suppliers and consulting firms shall not be requested to expend time, money, or effort to design or in developing specifications or otherwise help define a requirement beyond the normal level of service expected. Should such extraordinary services be required, the Division General Manager along with the Purchasing Services Division will be advised. If there is no alternative but to request such services, then the company providing same, shall be compensated at a pre-determined

fee. The resulting specifications shall become the property of the Corporation for use in obtaining competitive bids.

85. Suppliers or Consultants who are contracted to provide Design Services and/or specifications for work to be tendered or quoted shall be precluded from submitting a bid for said work.

PART VIII - IDENTICAL BIDS

86. a) If the Lowest Compliant Bids from two or more bidders are identical in Total Acquisition Cost or unit price, the Division General Manager or the Purchasing Services Division, with the consent of the Division General Manager, in charge of the Bid Solicitation, is authorized to enter into negotiations with the bidders who have submitted the identical prices in an attempt to obtain a lesser price and shall maintain a record in respect of such negotiations. "Best and Final Offer" (BAFO) may be utilized to achieve an award between the bidders.
- b) The Division General Manager or the Purchasing Services Division shall not reveal information pertaining to such negotiations or the manner in which the final price was determined to any of the bidders concerned. The Division General Manager or the Purchasing Services Division shall include as part of the record, a report concerning the results of such negotiations.
- c) When negotiations are not successful in breaking the identical tenders, then the successful bidder shall be determined by means of a draw or coin toss. The draw shall be performed in the presence of the Division General Manager in charge of the Bid Solicitation, the City's Purchasing Agent, the City Solicitor, or their designate(s), and the bidders involved.

PART IX - BIDS IN EXCESS OF PROJECT ESTIMATES:

87. Where Bids are received in response to a Bid Solicitation but exceed project estimates, the Division General Manager, in charge of the Bid Solicitation and the Purchasing Services Division, jointly, may enter negotiations with the Lowest Compliant Bidder to achieve an acceptable Bid within the project estimate.

PART X - BID IRREGULARITIES:

88. The process for administering irregularities contained in the Formal Bids Process pertaining to all contracts is set out in Schedule "C".

PART XI – VENDOR NOTIFICATION OF BID OPPORTUNITIES:

89. Invitations for Quotations, Tenders and Proposals may be sent to potential bidders to ensure the best possible response to the call. Every effort will be made to send notice to registered firms. The onus remains on the interested firm to review the City's Website "Civic Corner", Biddingo and/or the Ontario Public Buyers Association's (OPBA's) websites for notification of competitions that may be of interest to them.
- a) Purchases <\$5,000 do not require a competitive process.
- b) Purchases >\$5,000 but <\$75,000:
Bid may be solicited on an invitational basis. Where the supply base is unknown or it is deemed in the best interest of the City to solicit a bid open to all suppliers, bids shall be advertised on the City's website. All solicitations shall remain open for bid by vendor for a minimum period of 15 calendar days unless critical constrains limit the period available for bidding.
- c) Purchases exceeding \$75,000:

Vendors for specific requirements will be notified when possible and notification for a competitive opportunity shall be posted / advertised on the City's website. All tender and proposal calls shall remain open for bid by the vendor for a minimum of 15 calendar days unless constraints limit the period available for bidding.

Advertisements shall be posted on the City's website by the issuance date of the bid opportunity. Any person involved in Purchases may advertise purchases for lesser amounts if he or she determines that it is in the Corporation's best interest to do so.

No additional advertising is required for purchases where bidders have been previously pre-qualified.

Advertising is not required for goods and services that are identified in Schedule A of this purchasing By-law.

PART XII - NOTWITHSTANDING REPORTS/PURCHASES OUTSIDE OF POLICY

90. For proposed purchases which are outside the ambit of this policy, the requesting Division shall obtain Council approval.

PART XIII - GUARANTEE OF CONTRACT EXECUTION AND PERFORMANCE

91. BID SECURITY

- a) a) The Division General Manager may require that a Bid be accompanied by a Bid Security to guarantee entry into a Contract. The Division General Manager in conjunction with the Purchasing Services Division shall select the appropriate means to guarantee execution of the Contract. Means may include one or more of, but are not limited to, Canadian currency, certified cheque, bank draft, money order, surety bond issued by a Federal Government approved Surety Company, or the City's standard irrevocable standby letter of credit. The appropriate amount of bid security will be specified within the bid documents.

PERFORMANCE OF CONTRACT SECURITY AND LABOUR AND/OR MATERIAL PAYMENT SECURITY

- b) The Division General Manager may require that a Bid be accompanied by:
- a Performance of Contract Security to guarantee the performance of a Contract, and
 - a Labour and/or Material Payment Security to guarantee the payment for labour and materials to be supplied in connection with a Contract

The Division General Manager in conjunction with the Purchasing Services Division shall select the appropriate means to guarantee performance of the Contract and/or payment for labour and materials supplied in connection with the Contract. Means may include one or more of, but are not limited to, Canadian currency, certified cheque, bank draft, money order, the City's standard irrevocable standby letter of credit and/or, where specified, an agreement to bond which guarantees that if the bidder is successful, he is able to obtain the required performance bond and/or labour & material payment bond issued by an approved guarantee company properly licensed in the province of Ontario, on bond forms acceptable to the City.

- c) Prior to the commencement of work, evidence of insurance coverage satisfactory to the City must be obtained, ensuring indemnification of the City from any and all claims, demands, losses, costs or damages resulting from the performance of a Bidder's obligations under the Contract and from any other risk determined by the City as requiring coverage.
- d) Prior to payment to a supplier, a Certificate of Clearance from the Workplace Safety and Insurance Board shall be obtained ensuring all premiums or levies have been paid to the Workplace Safety and Insurance Board to the date of payment.
- e) Where applicable, All Consultants, Contractors and Subcontractors working on site or on behalf of the Corporation of the City of Welland shall comply with the provisions of the *Workplace Safety and Insurance Act*, S.O. 1997, c. 16, as amended and ensure that all employees and all those of subcontractors performing work under contract with the Corporation shall be covered by said Act. Prior to the commencement of any work, the vendor shall furnish a WSIB certificate in form and content satisfactory to the City. No Vendor shall commence any work under contract without this requirement being fulfilled.

PART XIV - CONTRACTUAL AGREEMENT

92.

- a. The award of Contracts for all purchases shall be made by way of a formal agreement or as a Purchase Order. The only exceptions allowed will be on purchases made through Petty Cash, Approved Invoices or Purchasing Card in accordance with Sections 55, 62 and 63 or for items listed on Schedule "A" attached unless specifically requested by the requisitioner.
- b. A Purchase Order is to be used when the resulting Contract requires only the City's standard contractual terms and conditions.
- c. A formal agreement is to be used when the resulting Contract is complex and will contain terms and conditions other than the City's standard contractual terms and conditions.
- d. It shall be the responsibility of the Division General Manager in charge of the particular Bid Solicitation in conjunction with the Purchasing Services Division and/or the City Solicitor, or their designate(s), to determine if it is in the best interests of the City to establish a formal agreement with the supplier.
- e. Where it is determined that a formal agreement is required, the formal agreement shall be reviewed and approved for execution by the City Solicitor or his/her designate.
- f. Where a formal agreement is required, the Division General Manager may execute the agreement in the name of the City.
- g. Where a formal agreement is issued, the Purchasing Services Division may issue a Purchase Order incorporating the formal agreement.
- h. Where a formal agreement is not required, the Purchasing Services Division shall issue and execute a Purchase Order incorporating the relevant terms and conditions.

PART XV - CONFLICT OF INTEREST

93. An employee has an indirect pecuniary interest in any Contract in which the City is concerned, if,
1. the employee or his or her spouse:
 - is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public that has a pecuniary interest in the Contract,
 - has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public that has a pecuniary interest in the Contract, or
 - is a member of an incorporated association or partnership, that has a pecuniary interest in the matter; or
 2. The employee or his or her spouse is in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the Contract.

Where an employee involved in the Award of any Contract, either on his or her own behalf or while acting for, by, with or through another person, has any pecuniary interest, direct or indirect, in the Contract, the employee:

- shall immediately disclose the interest to the Division General Manager involved in the award of the Contract and shall describe the general nature thereof;
- shall not take part in the Award of the Contract;
- shall not attempt in any way to influence the Award of the Contract
- A Division General Manager or the Purchasing Services Division shall not open and consider any bid, or otherwise acquire any goods or services from an elected official, officer or employee of the City unless the elected official, officer or employee obtains approval from Council prior to the close of the bid or the acquisition of the goods or services.
- No Council member or employee of the City may purchase goods or services for personal use through the Corporation unless authorized by Council or the Division General Manager and the City Manager or unless the item is sold through open competitive auction.
- No elected official of the City shall be allowed to contact a person, or any officer, employee or agent of the person who has submitted a bid to the City unless the bid call has been awarded or the contact is for the purpose of receiving a complaint.
- No City employee other than the employee responsible for the bid solicitation shall be allowed to contact a person, or any officer, employee or agent of the person who has submitted a bid to the City unless the bid call has been awarded or the contact is for the purpose of receiving a complaint.
- All bidders shall disclose to the City prior to submitting a Bid and/or accepting a Contract, any actual or potential conflict of interest. If the Purchasing Division determines a conflict of interest exists, the City may at its discretion not consider the Bid submitted or not award the contract or consider other Bids, or terminate the contract.

- If a potential conflict exists because of a City employee's personal or family interest in a business dealing with the City, or similar circumstance, City employees must advise their supervisor of the situation in writing. The supervisor shall take efforts to make alternative arrangements to handle the matter. The General Manager shall notify the Purchasing Division of any serious matters. The applicable General Manager shall work with the Purchasing Division to determine if the potential conflict of interest is substantial enough to prevent a City employee continued involvement in the matter.

PART XVI - DISPOSAL OF SURPLUS

94. The disposal of surplus and obsolete equipment shall be evaluated on a case by case basis.
95. The Purchasing Services Division shall have the authority to sell, exchange, or otherwise dispose of Goods declared as surplus to the needs of the City, and where it is cost effective and in the best interest of the City to do so, items or groups of items may:
- (a) be offered for sale to other City Divisions, City Affiliates, other government agencies or public authorities; or
 - (b) be sold by external advertisement, formal request, auction or public sale (where it is deemed appropriate, a reserve price may be established); or
 - (c) be sold or traded to the original supplier or others in that line of business where it is determined that a higher net return will be obtained than following other procedures; or
 - (d) be donated to a non-profit agency; or
 - (e) be recycled; or
 - (f) In the event that all efforts to dispose of Goods by sale are unsuccessful, these items may be scrapped or destroyed if recycling is unavailable.
96. No disposition of such Good(s) shall be made to employees, elected officials, or their family members unless such Good(s) are sold through external advertisement, formal request, auction or public sale and no conflict of interest exists. Prior to any such disposition, the employee shall declare their interest in writing to their General Manager, or in the case of an elected official to the City Manager, who will confirm whether any conflict of interest exists. Family members include those defined by the City's Conflict of Interest Policy or such other similar policy currently in force.

PART XVII - PAYMENT

97. The Treasurer shall, subject to the requirements of the Municipal Act, honor and pay for all goods or services covered by a Purchase Order, Contract, and Progress Certificate on Construction or other authorized purchase processes available to City Divisions.
98. No prepayment of all or part of any goods, services or equipment shall be made unless provision for it is included in the Purchasing agreement as evidenced by a tender, purchase order, or other form of purchasing contract.
99. Purchases may be made by cash, for goods that are picked up by an authorized requisitioner provided they do not exceed petty cash guidelines.

PART XVIII - INVENTORY CONTROL

100. A system of materials management and inventory control methods shall be used to maintain an adequate level of commodities to support and supply all Divisions.

PART XIX - ACCESS TO INFORMATION

101. The disclosure of information received relevant to the issue of Bid Solicitations or the Award of Contracts emanating from Bid Solicitations shall be protected in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, as amended.
102. All records and information pertaining to tenders, proposals and other sealed bids, which reveal a trade secret or scientific, technical, commercial, financial or other labour relations information, supplied in confidence implicitly or explicitly, shall remain confidential if the disclosure could reasonably be expected to:
- a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organizations;
 - b) result in similar information no longer being supplied to the City where it is in the public interest that similar information continues to be so supplied;
 - c) result in undue loss or gain to any person, group, committee or financial institution or agency;
or
 - d) result in information whose disclosure could reasonably be expected to be injurious to the financial interests of the City.

PART XX - ETHICS IN PURCHASING

103. The code of purchasing ethics established by the Ontario Public Buyers Association (OPBA) shall apply to all staff involved in the procurement process. The Ontario Public Buyers Association's Code of Ethics is based upon the following tenets and all employees who are authorized to purchase supplies and/or services on behalf of the City are to adhere to the following:
- **Open and Honest Dealings with Everyone who is involved in the Purchasing Process.** This includes all businesses with which the City contracts or from which it purchases Goods and/or Services, as well as members of our staff and of the public who utilize the services of the Purchasing Division.
 - **Fair and Impartial Award Recommendations for All Contracts and Tenders.** This means that we do not extend preferential treatment to any vendor, including local companies. Not only is it **against the law**, it is not good business practice, since it limits fair and open competition for all vendors and is therefore a detriment to obtaining the best possible value for each tax dollar.
 - **An Irreproachable Standard of Personal Integrity on the Part of All Those Designated as Purchasing Representatives for This City.** Absolutely no gifts or favours are accepted by the purchasing representatives of this City in return for business or the consideration of business. Also, the purchasing representatives of this City do not publicly endorse one company in order to give that company an advantage over others.
 - **Cooperation with Other Public Agencies in Order to Obtain the Best Possible Value for Every Tax Dollar.** This City is a member of a cooperative purchasing group. Made up of several public agencies, this group pools its expertise and resources in order to practice good value analysis and to purchase Goods and/or Services in volume thereby saving tax dollars.

PART XXI - RESOLUTION OF QUESTIONS OF POLICY

104. Any question involving the meaning or application of this policy shall be submitted, in writing, to the Treasurer who will resolve the question.

PART XXII- PROVIDING ASSISTANCE TO OTHER AGENCIES

105. The Division General Manager or the Purchasing Services Division with authority from the Division General Manager, provided there is no adverse impact upon the operations of the City, may lend, lease, rent or otherwise provide any vehicle, equipment or other goods as owned by the City to any federal, provincial or municipal body, ministry, agency, board, corporation or authority where such is in need because of unforeseen conditions.

PART XXIII- ADMINISTRATION

106. This policy will be subject to complete review by no later than December 31, 2019.
107. In this policy, unless the context requires otherwise, words importing the singular shall include the plural and words importing the masculine gender, shall include the feminine.

PART XXIV- REFERENCE TO THE PURCHASING PROCEDURES MANUAL:

108. All purchasing procedures related to this policy can be found in a separate document entitled "Purchasing Procedures Manual".

SCHEDULE "A" - GOODS AND SERVICES EXEMPT FROM THIS PURCHASING POLICY

Purchasing processes are not required for the following items unless specifically requested by the Requisitioning Division or the Agent. The Agent has the authority to execute any contracts required under this schedule. The Agent may delegate this authority if the Agent determines such delegation to be in the best interests of the City Of Welland.

TRAINING AND EDUCATION: Registration and Tuition fees for conferences, conventions, courses and seminars; Memberships; Staff Development, Workshops and Training.

REFUNDABLE EMPLOYEE / COUNCILLOR EXPENSES: Advances, Meal Allowances, Travel and Entertainment and miscellaneous - Non-Travel.

EMPLOYER'S GENERAL EXPENSES: Payroll and payroll deductions, Medical, Licenses including Hardware and Software, Debenture Payments, Insurance premium payments, Grants or charges to or from other Government Agencies, Damage Claims, Tax Remittances, Petty Cash Replenishments, Claim Settlements and Adjuster Services, Property Tax Refunds, Workplace Safety and Insurance Board (WSIB) remittance, Building Permit Refunds, Employer compensation,.

PROFESSIONAL AND SPECIAL SERVICES: Committee Fees, Counseling services, Legal fees and other Professional Services related to litigation or legal matters. These include fees for filing, hearings and other administrative fees and costs of Courts, Boards, Arbitration and other legal Proceedings, Funeral and Burial expenses, Witness fees, Contracts related to the provision of "controlled acts" by persons "governed by a health profession Act", as those expressions are used in the *Regulated Health Professions Act*, S.O. 1991, c.18, as amended, Professional and skilled services provided to individuals as part of approved programs within the Corporate or Community Services including but not limited to medical services, home care services, counseling services and child care.

OTHER PROFESSIONAL AND SPECIAL SERVICES INCLUDING: Additional non-recurring Accounting and Auditing Services, Legal Services if made in accordance with the delegation of authority to the City Solicitor and the City Manager, Banking Services and charges where covered by agreements, Public Debenture Sales, Group Benefits, Realty Services regarding the Lease, Acquisition, Demolition, Sale of Land and Appraisal of Land, Performance / artists fees, honoraria, arbitrators, providers of artistic or recreations services (such as instructors in dance, yoga, gymnastics), historical experts, artistic designers, health and appearance therapists, skate sharpening services, expert witnesses, public debenture sales.

UTILITIES: To include to include servicing and requested planted modifications, relocations related to construction, postage, water and sewage, hydro, gas, basic telephone service, cable television charges and other regulated authorities operating within and across municipal right of ways. (E.g. CN Rail, Via Rail, Enbridge)

ADVERTISING SERVICES: Required by the City on or in but not limited to radio, television, newspaper & magazines

BAILIFF OR COLLECTION AGENCIES

FREIGHT CHARGES

OTHER: Antiques and artifacts (shops, sales and repairs but not including restoration), Acquisition of Art (but not including commissioned works of art), Publications (including newspapers, periodicals, magazines or books), Maintenance and Licensing Software purchases for systems previously acquired, Purchases of goods for the purposes of retail sales (re-sale) by the City (not including items bear the City of Welland logo or insignia).

SCHEDULE “B” - REQUISITION AND PURCHASING METHODS c/w APPROVAL AUTHORITY

IT SHOULD BE NOTED THAT ALL CITY OF WELLAND STAFF ARE AUTHORIZED TO COMPLETE AND SUBMIT A REQUISITION FORM TO THEIR MANAGER FOR APPROVAL

| Dollar Value | Minimum Purchasing Method / Requirements | Section Reference | Approval Authority |
|----------------------------------|--|-------------------|--------------------------------------|
| Non-Sealed (Informal) RFx | | | |
| ≤ \$5,000 | Direct Purchase No Competitive Process Required | 52-53 | Any employee authorized by a Manager |
| > \$5,000 to ≤ \$10,000 | Request for Quotation Minimum 2 Invitational Written Quotations | 54 | Any employee authorized by a Manager |
| >10,000 to < \$25,000 | Request for Quotation Minimum 3 Invitational Written Quotations | 55 | Manager or Designate |
| > \$25,000 to ≤ \$75,000 | Request for Quotation Minimum 3 Invitational Written Quotations | 56 | General Manager or Designate |
| Sealed (Formal) RFx | | | |
| > \$75,000 | Request for Tender / Request for Proposal Minimum 3 Openly Advertised RFx | 57-60 | City Council |
| Professional Services | | | |
| < \$75,000 | Direct Assignment may be used based on written proposal Report shall be submitted to Council for Approval | 73 | City Council |
| > \$75,000 | Request for Proposal Minimum 3 Sealed proposals | 74 | City Council |
| Purchase By Negotiation | | | |
| ≤ \$25,000 | "Purchase by Negotiation" , Refer to Section 86 for a detailed description whereby inviting tenders or quotations may be waived. | 75-77 | General Manager or Designate |
| > \$25,000 to ≤ \$75,000 | | | City Manager or Designate |
| > \$75,000 | | | City Council |
| Emergency Purchases | | | |
| ≤ \$25,000 | "Emergency Purchase" , means purchases made during an event in the City, which in the opinion of the City Manager, General manager or their authorized designate, requires an immediate purchase in order to prevent a serious delay in acquiring needed Goods and/or Services, which delay reasonably could result in a danger to life, excessive damage to property and/or the environment, or the suspension of the provision of an essential service. | 78-79 | General Manager or Designate |
| > \$25,000 to ≤ \$75,000 | | | City Manager or Designate |
| > \$75,000 | | | City Council |

Sales taxes, excise taxes, goods and service taxes, duties and freight shall be excluded in determining the price of a contract for the supply of goods or services for the purpose of the relationship of the price to the preauthorized expenditure limit. In the case of multi-year supply and/or service contracts, the preauthorized expenditure limit shall refer to estimated/annual expenditure under the contract.

SCHEDULE "C" - BID IRREGULARITIES WITH APPLICABLE CONSEQUENCES

The City of Welland recognizes that submissions presented in response to solicitation may from time to time contain errors, not all of which shall be fatal to the consideration of the submission.

Bid Irregularity is defined as a variance between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response. The following list of irregularities should not be considered all-inclusive. The Agent, in consultation with the requisitioning Division may reject a bid based on an irregularity not listed, but considered major "OR" may accept the bid, or request that the bidder rectify the deviation.

Bid irregularities are further classified as either "major irregularities" or "minor irregularities", and defined as follows:

Major Irregularity is a deviation from the bid request which affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The City of Welland must reject any bid, which contains a major irregularity, without further consideration.

Minor Irregularity is a deviation from the bid request which affects form, rather than substance. (non monetary)

| Irregularity | Consequence |
|---|---|
| • Late Bid | Major Irregularity |
| • Unsealed Envelopes | Major Irregularity |
| • Bid Security not provided, in form or submitted at less than the amount specified | Major Irregularity |
| • Bid Security not signed by the Bidder or Bonding Company | Major Irregularity |
| • Failure to execute or submit Agreement to Bond, if required | Major Irregularity |
| • Bid documents not properly signed or witnessed | Major Irregularity |
| • Qualified Bid (Bid is restricted by a statement added to the Bid Document or covering letter or alterations to a form) | Major Irregularity |
| • Bids received on documents other than those provided in the request | Major Irregularity |
| • Incomplete Bids or all required sections of the bid document not completed | Major Irregularity |
| • Bids which suggest that the Bidder has made a major mistake in calculations or the Bid | Minor Irregularity Decision will be made on a case-by-case basis in consult with Procurement Services and the Legal Department |
| • Minor clerical errors | Minor Irregularity |
| • Mathematical Errors, Bids containing errors in extensions, additions or computations | Minor Irregularity The City has the right to correct mathematical errors |
| • The City of Welland will not accept bids containing changes, erasures, overweighting, whiteouts, cross outs, or strikeouts, which are not initialed by the bidder. | Major Irregularity |
| • Addenda not acknowledged | Major Irregularity |

SCHEDULE "D" SAMPLE OF THE CITY'S STANDARD "IRREVOCABLE STANDBY LETTER OF CREDIT

Revised November 12, 2014

PRINTED ON
FINANCIAL
INSTITUTION
LETTERHEAD

Financial Institution Address,
Phone Number, Fax Number

IRREVOCABLE STANDBY LETTER OF CREDIT

NAME OF BANK: _____ DATE ISSUED: _____

IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____

AMOUNT: _____

Issued subject to the Uniform Customs and Practices for Documentary Credits, 2007 revision, ICC Publication number 600L, implemented July 1, 2007.

TO: THE CORPORATION OF THE CITY OF WELLAND

ADDRESS: 60 EAST MAIN STREET, WELLAND ONTARIO L3B 3X4

WE HEREBY AUTHORIZE YOU TO DRAW ON THE

(Name of Bank & Address)

for the account of _____

(Name of Customer)

UP TO AN AGGREGATE AMOUNT OF _____

DOLLARS (\$ _____) available on demand.

PURSUANT TO THE REQUEST OF our customer: _____

(Name of Customer)

_____ we the _____

(Name of Bank)

hereby establish and give you an Irrevocable Standby Letter of Credit in your favour in the above amount which may be drawn on by you at any time and from time to time, upon written demand for payment made upon us by you which demand we shall honour without enquiring

whether you have the right as between yourself and the said customer to make such demand, and without recognizing any claim of our said customer, or objection by it to payment by us.

DEMAND shall be by way of a Letter signed by the Treasurer of the Municipality under the corporate seal. Presentation shall be made to the bank at: _____

(Bank's Address)

THE IRREVOCABLE STANDBY LETTER OF CREDIT we understand relates to those Municipal services and financial obligations set out in an Agreement between the customer and the Municipality and referred to as _____

(Name of Project, Subdivision or Development)

THE AMOUNT of this Irrevocable Standby Letter of Credit may be reduced from time to time as advised by notice in writing to the undersigned by the Treasurer of the Corporation of the City of Welland.

THIS IRREVOCABLE STANDBY LETTER OF CREDIT will continue in force for a period of one year, but shall be subject to the condition hereinafter set forth.

IT IS A CONDITION of this Irrevocable Standby Letter of Credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date hereof, unless at least 30 days prior to the present or any future expiration date, we notify you in writing by registered mail that we elect not to consider this Irrevocable Standby Letter of Credit to be renewable for any additional period.

DATED at _____, this the _____ day of _____, 20____

AUTHORIZED SIGNATURE
(Name & Title of Bank Representative)

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(Name & Title of Bank Representative)

SCHEDULE "E" – GLOSSARY OF PURCHASING DEFINITIONS AND TERMS

"Agreement" means a formal written legal agreement or contract for the supply of goods, services, equipment or construction.

"Approved Receipt" means an original supplier's invoice/receipt issued at the time of purchase, of low dollar Goods or Services **not exceeding \$5,000**, and which bears both the signature of an appropriately authorized employee and appropriate account number(s) for approval purposes.

"Authority" or **"Authorized"** means the legal right to conduct the tasks outlined in this policy as directed by Council and delegated to the City Manager, Department and Division Heads. Authorized purchases are those that have prior approval of Council either through resolution or through the departmental budget.

"Award", **"Awarded"** and **"Awarding"** mean authorization to proceed with the purchase of Goods, Services or Construction from a chosen supplier.

"Best and Final Offer" (BAFO) is the last offer provided by an offeror in response to a Request for Proposal and all further negotiation ceases. When the provision for receiving best and final offers is included in an RFP, offerors are given the opportunity to submit a best and final offer after negotiations have been held. After the best and final offers are submitted, no further negotiations shall be conducted with any of the offerors and the decision to award is based on rescoring of the best and final offers.

"Bid" means an offer or submission from a supplier in response to a bid solicitation which is subject to acceptance or rejection by the Corporation.

"Bid Bond" is an insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event a selected bidder fails to accept the contract as bid.

"Bidder" is a legal entity who submits a competitively priced offer in response to an invitation for bid.

"Bid Dispute" is a written complaint provided received by the Corporation from a Bidder; detailing specific reasons of a complaint against the methods employed or decisions made by the City in the process leading to the Award of a contract.

"Bid Irregularities" is defined in Schedule "C" and includes the appropriate consequence to those irregularities.

"Bid Security" is a refundable security which provides financial assurance to the City and that the bid has been submitted in good faith and that the contractor intends to enter into a contract at the price bid and in accordance with the terms of the bid documents; it may come in the form of Canadian currency, certified cheque, money order, bank draft or the City's standard irrevocable standby letter of credit.

"Bid Solicitation" means a formal request for Bids including an Informal Quotation, Request for Quotation, Request for Pre-Qualification, Request for Tender, Request for Proposal or Request for Expression of Interest

"Blackout Period" is the period of time that starts once a bid solicitation has been issued. The "Blackout Period" ends at the Award.

"Blanket Purchase Order" A purchase order under which a purchaser contracts with a vendor to provide for a purchaser's frequent, repetitive, small-order requirements for an item(s) or a service, on an as-required basis. Properly prepared, such an arrangement sets limit on the period of time it is valid and the maximum amount of money which may be spent at one time, or within a specified period, and specifically identifies those persons authorized to order and accept goods. The purchase order may also contain other terms and conditions, such as

the discount of the specific price list that applies to purchases made under the agreement and what items and services are included (or excluded) under the agreement.

“**Budget**” means the budget or portion of the budget approved by Council;

“**Certificate of Clearance**” from the Workplace Safety and Insurance Board means a certificate issued by an authorized official of the Workplace Safety and Insurance Board certifying that the Board waives its rights under subsection 9(3) of the *Workers’ Compensation Act*, R.S.O. 1990, Chapter W.11.

“**City**” means the Corporation of the City of Welland.

“**City Engineer**” means General Manager, Engineering, Public Works and Transportation Services/City Engineer.

“**City Manager**” Is the individual who is appointed as the administrative manager of the City or their designate.

“**City Treasurer**” means General Manager, Financial and Corporate Services/Treasurer.

“**Clerk**” means the Clerk of the Corporation or his or her designate;

“**Client Department**” is the City Department who has budgeted for the Good and/or Service required.

“**Collusion**” is a secret agreement or cooperation between two or more parties to accomplish a fraudulent, deceitful, or unlawful purpose.

“**Collusive Bidding**” is an unethical and illegal practice in which suppliers act in a collusion to “fix” their bids in a collectively advantageous manner.

“**Competitive**” is a process where more than one (1) bidder participates in the solicitation or offer in the opportunity to submit a bid.

“**Compliant Bid**” means the response to a Bid Solicitation conforms to the mandatory requirements contained in a Bid Solicitation

“**Conflict of Interest**”

- a) is defined as a situation or circumstance, real or perceived that could give a Bidder or potential Bidder an unfair advantage during a competitive procurement process or compromise the ability of a Contractor to perform its obligations under their contract.
- b) is a situation when a City employee or a member of their family has a direct financial interest in a Contract or proposed contract with the City, and where the City employee could directly influence the decision made in the course of performing their job duties, and also where the could indirectly influence the decision through exerting personal influence over the decision-makers.

“**Construction**” means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering design or architectural work, but does not include professional services related to the construction contract unless they are included in the specifications for the procurement.

“**Consulting Service**” are services of an advisory nature required to support policy development, decision-making, administration, or management of a business or public entity or organizations who possess specific knowledge, technical skills or unique abilities not usually available in-house or from within the City.

“Consultant” means a person or firm, who by virtue of a particular expertise, is hired by the Corporation to undertake a specific task or assignment that may include designing specifications and preparing plans or programs.

“Contract” means any formal legal agreement for supply of goods, services, equipment or construction.

“Contractor” is any legal entity to which a Contract is awarded;

“Corporation” means the Corporation of the City of Welland;

“Council” is the City Council of the Corporation of the City of Welland:

“Delegation of Authority” is when a person in authority appoints some or all of their authority to other City employee(s):

“Department” means any department within the Corporation of the City of Welland:

“Department Head” means a General Manager of a department.

“Designate” means a person authorized by the City Manager, Department or Division Head to act on his/her behalf, for the purposes of this policy.

“Disposal” means the selling, trading, assignment and/or scrapping of Surplus Assets;

“Director” is any Director / Executive Director or designate of a Department within the City of Welland or designate.

“Division” means a division within a department.

“Division Head” means a Manager of a division reporting directly to a Department Head.

“Emergency Purchase” means purchases made during an event in the City, which in the opinion of the City Manager, General manager or their authorized designate, requires an immediate purchase in order to prevent a serious delay in acquiring needed Goods and/or Services, which delay reasonably could result in a danger to life, excessive damage to property and/or the environment, or the suspension of the provision of an essential service.

“Fair Market Value” means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arms-length where fully informed and not under any compulsion to transact.

“Family Member” is a spouse (including common law spouse), parent, grandparent, sibling, child, grandchild, niece, nephew, uncle, aunt or cousin of the City employee.

“Financing Lease Policy” means policy #FIN-004-0001, By-law 2003-29 passed by Council under the authority of the *Municipal Act, 2001*, S.O. c.25, as amended by Ontario Regulation 46/94 amended to Ontario Regulation 401/02.

“Formal Bid Process” and RFX process whereby the bid is opened and recorded in the presence of the City Clerk or designate and at least one employee from the Requesting Division

“General Manager” is a General Manager of the City or designate.

“Goods” means moveable property including,

- a) the cost of installing, operating, maintaining or manufacturing such moveable property.
- b) raw materials, products, equipment and other physical objects of every kind and description.

“Informal Quotations” are reserved for purchases of a value less than \$75,000. Informal quotations are used to reduce the paperwork and time formal quotations normally require.

“In House Bid” means a Bid made by Department Staff and authorized by the Department Head submitted in response to a Bid Solicitation, where the provision of the Goods, Services or Construction will be provided entirely by the employees of the City.

“Irrevocable Standby Letter of Credit” means an irrevocable letter on the City’s standard form containing a request that the party to whom it is addressed pay the bearer or a person named therein money as a result of failure to perform or fulfill all the covenants, undertakings, terms, conditions and agreements contained in a contract (see Schedule “E” attached for sample).

“Labour and Material Payment Security” is a security which guarantees that the contractor will pay certain subcontractors, labour and material bills associated with the contracted project; it may come in the form of Canadian currency, certified cheque, money order, bank draft, the City’s standard irrevocable standby letter of credit or a labour and material payment bond.

“Labour Payment Bond” means a bond issued on behalf of the supplier, by a surety company, to ensure that the contractor will pay his or her employees and thereby protects the Corporation against items which might be granted to employees should the contractor not make proper payments.

“Lease” and agreement by which one party (Lessee) leases from a second party (Lessor) equipment or space for a specified period of time at a predetermined cost.

“Litigation (Pending)” is whereby a potential claimant has demonstrated or manifested and intention to assert a possible claim.

“Lobbying” means the advocacy of an interest that is affected, actually or potentially by the Bid Solicitation process or individuals involved in the Bid Solicitation process including seeking to influence the outcome of the Bid Solicitation process or subsequent Award.

“Lowest Compliant Bid” means the Bid that would provide the City with the desired Goods, Services or Construction at the lowest Total Acquisition Cost, meets all the specifications and contains no irregularities requiring automatic rejection.

“Manager” means an employee of the Corporation holding the position of Manager;

“Material Payment Bond” means a bond issued on behalf of the supplier, by a surety company, to ensure that the contractor will pay his or her suppliers and thereby protects the Corporation against items which might be granted to suppliers should the contractor not make proper payments.

“Mayor” means the elected Mayor of the Corporation or the person duly appointed to act in place of the Mayor.

“Negotiation” means a purchasing method whereby the Corporation may negotiate directly with one or more Suppliers with the intent to award a Contract or Extend an existing Contract;

“Non Compliant” means the response to a Bid Solicitation which does not conform to the mandatory requirements in the Bid Solicitation.

“Payment Card / P-Card” is a credit card used by authorized employees to pay for goods and or services in accordance with the City’s payment card policy.

“Performance Bond” means a bond issued on behalf of the supplier, by a surety company, executed in connection with a contract and which secures the performance and fulfillment of the undertakings, covenants, terms, conditions and agreements contained in the contracts.

“Performance of Contract Security” is a security which protects the City from financial loss should a contractor fail to perform the contract in accordance with the terms and conditions of the contract documents; it may come in the form of Canadian currency, certified cheque, money order, bank draft, the City’s standard irrevocable standby letter of credit or a performance bond.

“Procedures” means internal instructions or guidelines to departments or divisions, approved by the City Manager.

“Procurement” means;

- a) purchasing, renting, leasing, or otherwise acquiring any goods and or services or construction; includes all functions that pertain to the acquisition, including the description of requirements, preparation, solicitation, selection and Award of the Contract and all phases of Contract Administration.
- b) the combined functions of purchasing, inventory control, transportation, receiving, inspection, storekeeping, salvage and disposal operations.

“Procurement Services” means the section of the Finance Department that is responsible for the Procurement of Goods and/or Services on behalf of the City.

“Professional Services” means those services requiring the skills of professionals for a defined service requirement including but not limited to,

- (i) Architects, engineers, designers, surveyors, geoscientists, project managers, financial consultants, auditors, accountants, and medical professionals such as doctors, dentists and lawyers;
- (ii) Firms or individuals having specialized competence in environmental, planning or similar disciplines; and,
- (iii) Software consultants and any other persons providing similar services;

“Proponent” is a legal entity that submits a Proposal.

“Proposal” is a submission received in response to a Request for Proposal, acceptance of which may be subject to further negotiations.

“Purchase Order” means the legal document that is the Corporation’s commitment to the supplier for the value of the goods or services ordered. It is also the supplier’s authority to ship and charge for the goods specified on the order.

“Purchase Requisition” means a written or electronically transmitted request on an approved form, which is sent to the Department Head or designate to procure goods or services.

“Purchasing Card” means a corporate credit card used to purchase goods or services as outlined in Section 48.

“Purchasing Agent” means the City Treasurer or designate.

“Purchasing Services Division” means the Corporation of the City of Welland Purchasing Department

“Relationship” means a parent, spouse, child, brother or sister.

“Request for Expression of Interest (RFEI)” is a focused market research tool used to determine vendor interest in a proposed procurement. It may be issued simultaneously with a Request for Qualifications when the proposed procurement is well defined and the purchaser has clear expectations for the procurement.

“Request for Information (RFI)” is used prior to issuing a tender call as a general market research tool to determine what products and services are available, scope out business requirements, and/or estimate project costs.

“Request for Pre-Qualification (RFPQ)” is a request for the submission of information from potential Bidders, that may include, but not limited to, experience, education, financial strength, and capabilities. Typically a RFPQ is a pre-cursor to a Tender and multiple bidders are pre-qualified.

“Request for Proposal (RFP)” means an offer to supply goods or services on which end results are outlined but no detailed specifications given to the bidders as to the goods or how the work is to be performed; the goal is to obtain a unique proposal designed to meet broad outcomes to a complex problem or need for which there is no clear or single solution.

“Request for Quotation (RFQ)” means a request for prices on specific goods or services obtained formally through a Call for Quotations or informally from selected sources, which are submitted orally, in writing, by email or transmitted by facsimile as determined by the Department Head, Division Head or the Purchasing Agent; the goal is the same as for the Request for Tender except bid solicitation is done primarily on an invitational basis from a pre-determined bidder’s list but may be supplemented with public advertising of the procurement opportunity.

“Request for Tender (RFT)” means an offer in writing by way of a Call for Tender to execute certain specified work or to supply certain specified goods or services at a specific rate in response to the information contained in the Call for Tender; the goal is to obtain competitive bids based on precisely defined requirements for which a clear or single solution exists and to accept the lowest bid meeting the requirements specified in the competition; all competitions require public advertisement.

“Scope of Work” is the work that has been described in a bid solicitation that must be done to deliver the Goods and/or Services with the specified features and functions within the time, quality and price specified.

“Services” includes all professional and consulting services, all services in relation to real property or personal property including without limiting the foregoing the delivery, installation, construction, maintenance, repair, restoration, demolition or removal of personal property and real property and all other services of any nature and kind save and except only services to be delivered by an officer or employee of the City in accordance with terms of employment.

“Single Source” is the procurement of a good or service from a particular vendor rather than through solicitation of bids from other vendors who can also provide the same item.

“Sole Source” is the procurement of a good or service that is unique to a particular vendor and cannot be obtained from another source.

“Tender” is a submission received in response to a Request for Tender.

“Total Acquisition Cost” means an evaluation of quality and service in the assessment of a Bid and the sum of all costs including purchase price, all taxes, warranties, local service costs, life cycle costs, time of completion or delivery, inventory carrying costs, operating and disposal costs for determining the Lowest Compliant Bid.

“Value for Money / Best Value” A value-for-money approach aims to deliver Goods and / or Services with a lower total life-cycle cost while maintaining a high standard.

“Vendor” is a supplier / seller of goods and / or services.